

No. 21-5750

ORIGINAL

Supreme Court, U.S.  
FILED

AUG 26 2021

OFFICE OF THE CLERK

IN THE  
SUPREME COURT OF THE UNITED STATES

Richard A Waite — PETITIONER  
(Your Name)

vs.

State of NH — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

New Hampshire Supreme Court  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Richard A Waite 91955  
(Your Name)

138 E. Milan Rd - NCF  
(Address)

Berlin NH 03570  
(City, State, Zip Code)

None  
(Phone Number)

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### QUESTION(S) PRESENTED

- ① - Is conflicted counsel - Actual/Real conflict of interest, ineffective counsel? And a violation of Constitutional Rights?
- ② Do ABA (or state equivalent) ethic "rules" have any bearing or standing in Laws?
- ③<sup>A</sup> Are there consequences for lawyers violation said Rules? Or does just the defendant get the "short straw" of a lawyer that willingly violates said ethic rules? Is there recourse for a defendant when a lawyer violates the ethical rules? And ~~does~~ does not notify the court of a violation he/she is making? -  
3B - OR does the "right" of him/her self, self incriminating themselves over rule the defendants rights to effective (ie un-conflicted) counsel?
- ④ As of the 2019 NH "Day book" - The NH Public Def office listing has the NH Appellate Def program as a division - same firm. Does this, with ~~and~~ or separate from the case law, make them the same firm for conflict of interest.

## LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

☒ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

① NH Public Defenders Office/Appellate Def Office  
10 Ferry St Suite 434  
Concord NH 03301

② cheshire Co Atty office  
c/o Keith Clouatre ACA 14883  
12 Court St  
Keene NH 03432-1061

③ state of NH AG's office  
33 Capital St  
Concord NH 03301-6397

④ cheshire Co Superior Court  
33 Winter St Suite #2  
Keene NH 03431

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# TABLE OF AUTHORITIES CITED

## CASES

## PAGE NUMBER

Wheat v United States 486 US 153, 108  
S.Ct 1692, 100 LEd2d 140 (1988)

Thru out - r

~~Cost~~ Luis v United States 136 S.Ct. 1083  
194 L.Ed2d 256, 2016 USLexis 2272  
84 US L.W. 4159.26 Fla L Weekly  
Fed S.49 (2016)

1083 at 1109  
256 at 286

State (New Hampshire) v Veale 154 NH 730  
(2007)

## STATUTES AND RULES

New Hampshire Rules of Professional conduct.

## OTHER

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix \_\_\_\_\_ to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the United States district court appears at Appendix \_\_\_\_\_ to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A-1 to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished. *To The best of my limited knowledge.*

The opinion of the NH Supreme CT court appears at Appendix A-1 to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished. *DITTO*

## JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was \_\_\_\_\_.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was 28-MAY-21.  
A copy of that decision appears at Appendix A-1.

☐ A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

**CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

6<sup>th</sup> Amendment to The U.S. Constitution -  
Conflicted Counsel



## STATEMENT OF THE CASE

Criminal Defendant had a public Defender at Trial who was removed by the Trial Court soon after the trial BUT before Sentencing. This Created a conflict of interest for the "Firm" < NH Public Defenders office - Appellate defenders program >, they are, per NH Case Law *State v Veale*, the same firm, yet the NH Public Defenders office, appellate division lawyers insisted, over the Defendants loud objections, to do his appeal. In violation of *Wheat v US* (1988) and *Luis v US* (2016). Defendant Waite feels that if a court can not, per *Wheat*, allow conflicted lawyers that a defendant wants, he should not have had one that he did NOT want, but was forced on him by un-ethical counsel < that helped his original lawyer make decisions that lead the trial court to remove him > and the Courts. Does a states "right" to closure carry more weight than a Defendants rights under the US constitution?

This Case departs far from accepted and usual course of judicial proceedings. State court decided the states "right" to closure is above a defendants rights of non conflicted/non effective counsel.

## REASONS FOR GRANTING THE PETITION

Because it is right, just, constitutional and follows well established US Supreme Court case law

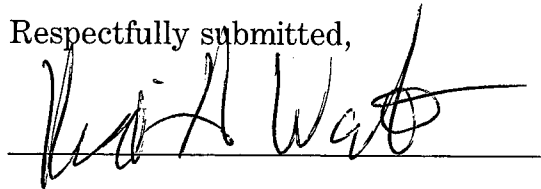
State v Veale - a NH case gives the Appellate lawyer instructions to tell of a conflict of interest. My Lawyer told of a potential conflict, while NOT informing the court of the actual one.

Interesting note. The State-Cheshire Co Attny office never - not once - argues that the Appellate lawyer was NOT conflicted.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Neil A. Wacht", is written over a horizontal line.

Date: 20-Aug-21